



**DEPARTMENT OF
FINANCE**
OFFICE OF THE DIRECTOR

STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

GRAY DAVIS, GOVERNOR

RECEIVED

October 7, 2002

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**COMMISSION ON
STATE MANDATES**

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Higashi:

As requested in your letter of July 8, 2002, the Department of Finance has reviewed the test claim submitted by the San Juan Unified School District (claimant) asking the Commission to determine whether specified costs incurred under specified legislation associated with the Academic Performance Index (API) are reimbursable state mandated costs (Claim No. CSM-01-TC-22 "Academic Performance Index"). The claimant has identified the following new duties, which it asserts are reimbursable state mandates:

A. Establish, update, and maintain data gathering procedures to conduct the following:

- a. Pursuant to Title 5, California Code of Regulations, Section 1032, subdivision (d), notify the State Department of Education (SDE) of any situation that may invalidate a school's API.

The section of the California Code of Regulations referenced here does not require districts to provide information to the Superintendent of Public Instruction. Rather, Section 1032 states that a school's API shall be considered invalid under certain circumstances, but does not specifically require local educational agencies (LEAs) to provide any information. Additionally, Education Code Section 52052(f)(3) states that a school that participates in Immediate Intervention/Underperforming Schools Program (II/USP) will get an API unless the Superintendent determines that an API score would be an invalid measure due to specified reasons. Hence, the Education Code requires a greater level of service from the Superintendent, not LEAs. Therefore, Title 5, California Code of Regulations, Section 1032, subdivision (d) does not result in a reimbursable State mandate.

- b. Pursuant to Title 5, California Code of Regulations, Section 1032, subdivision (j), notify SDE and the test publisher whether there are errors in the Standardized Testing and Reporting (STAR) testing or demographics data.
- c. Pursuant to Title 5, California Code of Regulations, Section 1032, subdivision (j), submit all data corrections to the test publisher in writing or email.

LEAs receive district apportionments for costs associated with implementing the STAR program, including ensuring the quality of the test administration and

information provided to SDE and the test publisher. Currently, the test publisher is required to incur any costs associated with correcting an error made by the publisher in regards to the STAR program. Likewise, if an LEA provides inaccurate information, despite receiving funds to ensure the quality of the STAR data, the LEA should be held responsible for the fiscal implications at the local level.

- d. Pursuant to Education Code Section 52052, subdivision (a), respond to any requests from SDE for attendance rates for pupils and certificated staff personnel for elementary, middle, and high schools.
- e. Pursuant to Education Code Section 52052, subdivision (a), respond to any requests from SDE for graduation rates.
- f. Pursuant to Education Code Section 52052, subdivision (a), provide the Superintendent, when required, with data pertaining to high school graduation and attendance rates.

Education Code Section 52052, subdivision (a) does not require LEAs to provide this information. Rather, it states that the API shall consist of multiple indicators **currently reported** to SDE under existing law, including, but not limited to, attendance rates for pupils (currently reported pursuant to average daily attendance reporting, Education Code Section 41601), certificated personnel (reported on CBEDS), and graduation rates (reported on CBEDS). Given that this section of the Education Code does not impose any new requirements on LEAs, it does not result in a reimbursable State mandate. Further, while the long-term goal is to incorporate multiple indicators in the API, thus far, the API has consisted solely of test results.

- B. For schools that are required, pursuant to Education Code Section 52053 subdivision (j) and/or 52056.5, to participate in the II/USP, and to the extent funding is unavailable or insufficient, conduct the following duties:
 - a. Contract with an external evaluator and appoint a schoolsite and community team.
 - b. Assist the external evaluator and schoolsite and community team, as requested or required, in the preparation of an action plan.
 - c. Contribute matching funds for any implementation grants provided.
 - d. For schools that fail to meet their growth targets within 12 months of receiving funding, hold a public hearing and consult with the external evaluator and the schoolsite and community team in choosing interventions to continue the implementation of the action plan.
 - e. Enter into a contract with a school assistance and intervention team if required by the Superintendent.
 - f. For a school that is required to contract with a School Assistance and Intervention Team, provide support and assistance to enhance the work of the team at the schoolsite.
 - g. For a school that is required to contract with a School Assistance and Intervention Team, adopt the team's recommendations at a regularly scheduled meeting of the governing board and submit the recommendations to the Superintendent and State Board of Education (SBE).
 - h. For a school that is required to contract with a School Assistance and Intervention Team, no less than three times a year, present the team with data regarding progress toward the goals established by the team, and present the data to the governing board, Superintendent, and SBE.

- i. For a school participating in II/USP, submit an annual evaluation to the Superintendent of the impact, costs, and benefits along with a report on whether the school has met its growth targets.

While the Superintendent is allowed, under certain circumstances, to select a school for participation in the II/USP, no current II/USP participant has been selected in that manner. The three cohorts of II/USP consist entirely of volunteers. Therefore, the conditions necessary to create the reimbursable State-mandates specified in this claim do not exist. Hence, nothing required of II/USP schools would constitute a reimbursable State-mandate. Further, State funding is provided for all of the activities listed.

- C. For those school districts with schools that received the one-time Certificated Staff Performance Incentive Awards, establish, update, and maintain employee payroll records to receive, administer, and distribute award funds to staff.
- D. For those school districts that complete an application for the Certificated Staff Performance Incentive Awards, complete an application including the following:
 - a. Number of eligible schools.
 - b. Certification that the data used in the API calculations is accurate.
 - c. List of certificated staff on a Full Time Equivalent (FTE) basis at each eligible school.
 - d. After January 8, 2002, the application includes certification that the data used in the API calculations are accurate and a list of certificated staff on an FTE basis at each eligible school.
- E. For those school districts with schools that received the one-time Certificated Staff Performance Incentive Awards, negotiate with the bargaining unit of the teachers and other certificated staff to determine how the funds are to be distributed.
- F. If an agreement cannot be reached between the district and bargaining unit or if the teachers and other certificated staff do not have a bargaining unit, calculate and distribute awards amounts as a percentage of base salaries that is determined by dividing the total amount of the award by the sum of the annual base salaries for teachers and other certificated staff of the school.
- G. Calculate individual salary awards, determine and locate recipients, and deliver individual salary awards for the Certificated Staff Performance Incentive Awards.

Participation in the Certificated Staff Performance Incentive Award Program is voluntary for eligible schools. The implementing legislation (Chapter 71, Statutes of 2000) states that as a condition of receiving funds, LEAs shall certify the number of full-time equivalent employees. As such, it is clear that the Legislature intended that the awards program not be mandated. Schools, and districts that apply on their behalf, willingly choose to apply for and accept the awards, including any administrative costs associated with these awards.

- H. When requested by the Superintendent, certify the number of FTE employees for the purposes of the Academic Performance Index Schoolsite Employees Performance Bonus.
- I. For districts and counties with schools that received API Schoolsite Employees Performance Bonuses, establish, update, and maintain employee records to receive, administer, and distribute award funds to staff.
- J. Consult with the existing schoolsite governance team/council to decide how to use Governor's Performance Awards and the schoolsite portion of the API Schoolsite

Employees Performance Bonus, and have the distribution plan ratified by the governing board.

- K. Provide compensation-driven benefits, including but not limited to Medicare, unemployment insurance, and worker's compensation resulting from individual salary awards pursuant to the Governor's High Achieving Schools Program, the Certificated Staff Performance Incentive Act, or the API Schoolsite Employees Performance Bonus program.

LEAs are not required to apply for, or accept any awards associated with the API. As such, an LEA that applies for an award or accepts award funding accepts responsibility for any higher level of service, which may be required of the LEA, as a result of those awards. Further, Title 5, California Code of Regulations, Section 1037 specifically exempts the Certificated Staff Performance Incentive Act awards from being considered compensation for the purposes of calculating retirement benefits or contributions or any other benefit that an employee may receive based on compensation. Also, Section 1038 exempts the Certificated Staff Performance Incentive Act and Governor's Performance Awards from any school, district, and county indirect/administrative charges. Additionally, Chapter 734, Statutes of 2001 (AB 804, Committee on Education), states that administrative costs and salary-driven costs incurred as a result of implementation of the API Schoolsite Employees Performance Bonus program shall be paid from the schoolsite portion of the awards. Therefore, the activities specified in this claim are not reimbursable State-mandates.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your July 8, 2002, letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Michael Wilkening, Principal Program Budget Analyst at (916) 445-0328 or Keith Gmeinder, state mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,



Jeannie Oropeza
Program Budget Manager

Attachment

Attachment A

DECLARATION OF MICHAEL WILKENING
DEPARTMENT OF FINANCE
CLAIM NO. 01-TC-22 Academic Performance Index

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the Chaptered legislation sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

October 7, 2002

at Sacramento, CA

Michael Wilkening

Michael Wilkening

PROOF OF SERVICE

Test Claim Name: Academic Performance Index

Test Claim Number: CSM-01-TC-22

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 7th Floor, Sacramento, CA 95814.

On October 7, 2002, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7th Floor, for Interagency Mail Service, addressed as follows:

A-16

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

B-8

State Controller's Office
Division of Accounting & Reporting
Attention: Glenn Haas
3301 C Street, Room 500
Sacramento, CA 95816

Centration, Inc.

Attention: Beth Hunter
8316 Red Oak Street, Suite 101
Rancho Cucamonga, CA 91730

Education Mandated Cost Network
C/O School Services of California
Attention: Dr. Carol Berg, PhD
1121 L Street, Suite 1060
Sacramento, CA 95814

Sixten & Associates

Attention: Keith Petersen
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

E-8

Department of Education
School Fiscal Services
Attention: Gerry Shelton
560 J Street, Suite 150
Sacramento, CA 95814

Mandated Cost Systems, Inc.

Attention: Steve Smith
11130 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670

San Diego Unified School District

Attention: Arthur Palkowitz
4100 Normal Street, Room 3159
San Diego, CA 92103-2682

Cost Recovery Systems

Attention: Annette Chinn
705-2 East Bidwell Street, Suite 294
Folsom, CA 95630

B-08

State Controller's Office
Division of Audits
Attention: Jim Spano
300 Capitol Mall, Suite 518
Sacramento, CA 95814

MAXIMUS
Attention: Pam Stone
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

Reynolds Consulting Group
Attention: Sandy Reynolds
PO Box 987
Sun City, CA 92586

Spector, Middleton, Young, Minney, LLP
Attention: Paul Minney
7 Park Center Drive
Sacramento, CA 95825

San Juan Unified School District
Attention: Diana Halpenny
3738 Walnut Avenue
Carmichael, CA 95608

Shields Consulting Group
Attention: Steve Shields
1536 36th Street
Sacramento, CA 95816

Centration, Inc.
Attention: Andy Nichols
12150 Tributary Point Drive, Suite 140
Gold River, CA 95670

Mandate Resource Services
Attention: Harmeet Barkschat
5325 Elkhorn Blvd., Suite 307
Sacramento, CA 95842

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 7, 2002, at Sacramento, California.

Chad Robins for JN
Jennifer Nelson